

1 THE STATE OF NEW YORK

2 NEW YORK STATE CENTRAL PINE BARRENS

3 JOINT PLANNING & POLICY COMMISSION

4 -----X

5 Public Hearing in the Matter of:

6 JAMES EAGAN, HENRY DITTMER c/o ARMAND EAGAN,
7 CORE PRESERVATION AREA HARSHIP WAIVER APPLICATION

8 Location: East side of Yaphank Middle Island Road,
Yaphank, Town of Brookhaven

9 Suffolk County Tax Map Number 200-529-5-36

10 Pursuant to New York State
11 Environmental Conservation Law
12 Article 57-0121(10) and the
Central Pine Barrens Comprehensive Land Use Plan

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13 October 17, 2018
3:00 P.M.

14
15 BROOKHAVEN TOWN HALL
ONE INDEPENDENCE HILL
FARMINGVILLE, NY

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B E F O R E:

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Carrie Meek Gallagher, Chairwoman

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1 FOR THE COMMISSION:

2 CARRIE MEEK GALLAGHER, Chairwoman/Representative
for New York State's Governor's Office

4 DORIAN DALE, Designated Representative for
Member/Suffolk County Executive Steve Bellone

5 JANET P. LONGO, Designated Representative for
Member/Suffolk County Executive Steve Bellone

7 EMILY PINES, Designated Representative for
Member/Brookhaven Supervisor Edward P. Romaine

8 KYLE P. COLLINS, Designated Representative for
Member/Southampton Supervisor Jay H. Schneiderman

10 MARTY SHEA, Designated Representative for
Member/Southampton Supervisor Jay H. Schneiderman

11 LAURA JENS-SMITH, Member/Riverhead Supervisor

12 DANIEL P. McCORMICK - Member/Designated
13 Representative for Riverhead
14 Supervisor Laura Jens-Smith

14 JOHN W. PAVACIC, Executive Director,
Central Pine Barrens Commission

FOR THE APPLICANT:

ARMAND EAGAN
17 PETER D. BARON, Esq.

18 Also Present:

19 John Milazzo, ESQ., Commission Staff,
Special Counsel

Julie Hargrave, Principal Environmental Planner

Jerry Tverdyy, Senior Environmental Analyst

Carol Sholl-Ostrowski, Administrative Assistant

Stephanie J. Valder, Stenographer

The Public

1 P R O C E E D I N G S

2 CHAIRWOMAN MEEK GALLAGHER: All right.

3 It's 3:00. We're going to get started with the
4 first of two public hearings. Yes, you're
5 gonna explain that though; right John?

6 MR. PAVACIC: Yeah, I will. One of us
7 will do it.

8 CHAIRWOMAN MEEK GALLAGHER: Okay.

11 THE STENOGRAPHER: I have everybody
12 around the table just whoever's sitting in --

13 CHAIRWOMAN MEEK GALLAGHER: Okay, so
14 you have them.

15 Okay. I'll read out the notice of
16 public hearing. Pursuant to the New York State
17 Environmental Conservation Law Article
18 57-0121(10) and the Central Pine Barrens
19 Comprehensive Land Use Plan, notice is hereby
20 given that the Central Pine Barrens Joint
21 Planning and Policy Commission will hold a
22 public hearing on Wednesday, October 17th, 2018
23 on the matter of a Core Preservation Area
24 Extraordinary Hardship Waiver. The name of
25 today's project is the Eagan Dittmer House Core

1 P R O C E E D I N G S

2 Preservation Area Hardship Waiver Application.

3 And John, did you have some remarks
4 you wanted to make before we get started or --

5 MR. PAVACIC: Well, this is just that
6 the first of two hearings that we're having
7 today. So just to distinguish this, this is --
8 this first hearing is in regard to a Hardship
9 Waiver for development on this, this lot,
10 lot 36. And the second hearing has to do with
11 a Pine Barrens Credit Letter of Interpretation
12 appeal.

13 So two different matters, so we just
14 want to make sure that we distinguish the two
15 of them. So right now, this hearing that is
16 being open is on the Hardship Waiver.

17 CHAIRWOMAN MEEK: Okay.

18 MR. BARON: Mr. Milazzo, do you think
19 at this time we can make an application to
20 consolidate both issues into the one hearing.

21 MR. MILAZZO: I don't -- I -- that's
22 exactly why we just made that statement.

23 CHAIRWOMAN MEEK: Yeah.

24 MR. MILAZZO: My problem with that is
25 I think the record will get confused. And I

1 P R O C E E D I N G S

2 would like to -- you have -- you're entitled to
3 your hearings. But if we keep the two issues
4 distinct, it may be easier for someone to
5 review it in the future.

6 MR. BARON: All right. Give me one
7 moment.

8 MR. MILAZZO: I apologize, but I just
9 think it's going to keep the record cleaner --

10 MR. BARON: I understand.

11 MR. MILAZZO: -- for everybody.

12 MR. EAGAN: Let me ask, are we allowed
13 to say everything twice?

14 MR. MILAZZO: That's fine. You can
15 say everything twice. We don't care.

16 (Laughter.)

17 MR. MILAZZO: And we're going to do
18 the same thing, cause there's -- it is the same
19 parcel, so we're going to repeat --

20 MR. PAVACIC: Do you want Julie --

21 MR. MILAZZO: -- twice. Yeah, that's
22 fine.

23 MR. PAVACIC: -- do you want Julie to
24 go first?

25 CHAIRWOMAN MEEK: Yeah. Let's have

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2 Julie go first. That's a good idea.

3 MR. MILAZZO: I just think it will be
4 easier to have them one after -- yes, you'll
5 have two decisions and I think --

6 MR. BARON: It's going to be pretty
7 much the same issues being raised in both
8 applications.

9 MR. MILAZZO: And we -- we're -- I
10 think that it will be easier for everyone in
11 the future maybe to have a clean record on both
12 ends.

13 MR. EAGAN: Who are you referring to?

14 MR. BARON: Yeah, go ahead.

15 CHAIRWOMAN MEEK GALLAGHER: Yeah, and
16 I think maybe we could have Julie go first --

17 MR. MILAZZO: Yeah.

18 CHAIRWOMAN MEEK GALLAGHER: -- to lay
19 out the background.

20 MS. HARGRAVE: Okay, thank you.

21 And so you have the staff report.

22 It's the blue binder. The Credit appeal will
23 be this white one that Jerry will handout later
24 on.

25 So just to review the project, it's --

1 P R O C E E D I N G S

2 this is a 4,000 square foot parcel. It's
3 wooded. It's in Yaphank. It's on an unopened
4 road, Chesterfield Avenue. It's about 153 feet
5 east of the road that's developed, County Road 21.

6 And the -- there was a prior
7 application on this parcel received in 2015.
8 And there were adjournments and cancelations of
9 hearings, and the applicant withdrew that
10 application. But it was the same project to
11 develop this parcel and open the road for the
12 development of the privately-held parcel.

13 And so as you know, the project is
14 simultaneously under review for a Credit appeal
15 and that's a separate application. The
16 applicant did not submit any narrative to
17 address the hardship criteria, so we don't have
18 that for you.

19 And just to also -- so we'll look at
20 the parcel for a minute. The applicant also
21 owns two lots that are -- front on this road,
22 County Road 21, but those are protected. They
23 entered into conservation easements to protect
24 those lots and received one Credit for each of
25 those lots. So those are -- this is lot behind

1 P R O C E E D I N G S

2 these two lots. And the lot does not align
3 perfectly with the aerial and the tax map, so
4 Jerry was able to create sort of a more
5 realistic version of where the lot is, in terms
6 of the relation to existing development on
7 County Road 21.

10 (Whereupon, Staff Exhibits A
11 through M were received in evidence as
12 of this date.)

13 MS. HARGRAVE: Exhibit A is the staff
14 report, and this reviews the information on the
15 property and the environmental information.
16 Again, this -- the property is wooded and
17 contains natural Pine Barrens vegetation.

23 We have received information from the
24 Natural Heritage Program that they have new
25 records of species and ecological communities

7 And this is obviously in the
8 Hydrogeological Zone III where depth to
9 groundwater is approximately 20 feet. The site
10 is generally flat. There's no major steep
11 slopes.

16 County Road 21 is listed in the Pine
17 Barrens Plan as a scenic resource. So you will
18 see in one of the exhibits, some photographs
19 from the road front that show that much of this
20 area, as you can see in study area map, is
21 about three-quarters of the area is in the
22 Core. And it's significantly protected with
23 un-fragmented open space and public land owned
24 by the County and the Town of Brookhaven.

25 So the study area, just to go over the

1 P R O C E E D I N G S

2 study area, it's about a one-half mile radius
3 of the project site, around the project site.

4 It includes about 450 to 500 acres. And again,
5 it's significantly contains the un-fragmented
6 open space, publicly-owned land.

7 This parcel is in the Map called
8 Flower City Park. It was filed in the 1920s.
9 And there are a number of privately-owned
10 parcels that still exist in this public --
11 in this Flower City Map, but much of it has
12 also -- a lot of the parcels have also been
13 protected by the County as nature preserve.

14 And the site is adjacent to a parcel
15 that's 10,000 square feet. But the parcel
16 right there on the east side, that was denied a
17 Core hardship in February, 2016 under the owner
18 of Henry Dittmer. And that project -- or that
19 decision has been in litigation since then.

20 And just to go through the study area
21 a little more, about 175 acres of open space is
22 just on the east side of County Route 21 in
23 this study area. And the west side also has at
24 least about 100 acres. And there is a critical
25 resource area as well, to the southwest of this

1 P R O C E E D I N G S

2 parcel. And that is defined in the Pine
3 Barrens Plan.

13 You'll see -- and on page 6 of the
14 staff report, there are a number of other
15 decisions that the Commission has made in the
16 past from the 90s to 2010, for Core hardships
17 for single-family houses. And those are
18 different from this parcel, because they either
19 fronted on a road or were on a road front
20 exemption list to develop a single-family
21 residence. And then -- or they may have had
22 clearing -- a previous clearing or development
23 that occurred prior to the Act. They may have
24 had municipal approvals to build those lots.
25 This lot does not have any approvals from the

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2 Town to develop.

3 CHAIRWOMAN MEEK GALLAGHER: Okay.

4 MS. HARGRAVE: And then again, this
5 would also require the opening of a paper
6 street to accommodate this development.

7 And as you'll see page 7 of the staff
8 report, there are a few hardships that have
9 been denied for a single-family residences.
10 And they did not -- they were not on a road, or
11 they didn't meet or qualify for a hardship for
12 one or more reasons. In the information that
13 starts on page 7 about water resources in terms
14 of the Article 6 Health Department
15 requirements, there are different definitions
16 of a developer when it comes to this type of
17 development. And I guess we have to get more
18 information on how this applies to the project
19 on the plan.

20 So this is a Type II action through
21 SEQRA. And this was not coordinated with
22 the -- with any other agencies, other than the
23 State Historic Preservation Office. And it's
24 not clear at this time what Town approvals
25 would be required to open a road to build this

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2 lot in the way that's been proposed. And so
3 that still remains unknown.

4 Again, the applicant did not submit a
5 Hardship Waiver discussing or addressing the
6 hardship criteria. So we're not sure on their
7 arguments to obtain a hardship. So all of the
8 questions are at the end of staff report. And
9 I'll just review again the exhibits to the
10 staff report.

16 And Exhibit C contains the map that
17 was submitted with the application for a
18 hardship that shows the lot -- it appears to
19 have no setback for the dwelling. But this map
20 is a little bit confusing. It's not exactly
21 clear where this parcel exactly is. It's
22 like -- but the -- like the septic system is
23 straddling the property line it looks like. So
24 if this were approved, I mean I'm not sure if
25 this type of dwelling and facilities would be

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2 placed in those locations. But that's the plan
3 that was submitted by the applicant.

4 And D is the deed for the parcel filed
5 in 2017 that shows Henry Dittmer and James
6 Eagan as the owners.

7 And E is the photographs of the
8 property. Again from County Road 21, you
9 can't, you know, see the parcel lines. So you
10 can see what -- where the proposed road would
11 be and set more than 100 feet back from the
12 road is the parcel on the list. So this also
13 contains other pictures of other structures in
14 the -- on the road front. And most of, if not
15 all of the houses, maybe all but one, are on
16 County Road 21. They're developed in this
17 area, were developed before the Pine Barrens
18 Act. So there is a photo of the Preserve to
19 the south, Warbler Woods, that was a large
20 County Preserve.

21 And moving to Exhibit F, it contains
22 the list of species that were identified by the
23 Breeding Bird Atlas to potentially exist in
24 this area that covers about a 3-mile square
25 over the site. So we -- it's a large area that

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2 we could potentially be in that area. And
3 Exhibit G contains the list of species of
4 greatest conservation group that was issued by
5 the DEC. And one of the warblers on this list
6 is also on the Green Bird Atlas's, so it could
7 potentially be utilizing the site as habitat or
8 its origin as a residing habitat.

9 And the Exhibit H is the wetland map.
10 There are significant wetland -- there's
11 significant habit across the road and steep
12 slopes on the west side of County Road 21. And
13 that's going towards Carmen's River, so it
14 makes sense that there's a whole wetland system
15 there. And also to the east on the Map of
16 Flower City Park, there is also wetlands
17 present there east of the site.

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2 And Exhibit K is just showing you the
3 zoning of the Town zoning A-5 for this, that
4 covers this area significantly.

5 And Exhibit L is the decision on
6 remittal that was recently submitted by the
7 Commission for the lot 35 Core Hardship that
8 was denied a couple of years ago.

9 And Exhibit M is the current letter of
10 interpretation for the parcel, which allocates
11 a .1 Pine Barrens Credit for the parcel.

12 And that's all have. Thank you.

13 If you have any questions on that
14 information.

15 CHAIRWOMAN MEEK GALLAGHER: No.

16 Thank you, Julie, for providing that
17 background.

18 Okay. Who's going to speak first?

19 MR. BARON: Mr. Eagan.

20 MR. EAGAN: I'm going to speak first,
21 but that's just because I have --

22 MR. MILAZZO: Can we swear him in?

23 CHAIRWOMAN MEEK GALLAGHER: Yeah.

24 MR. EAGAN: Okay.

25 CHAIRWOMAN MEEK GALLAGHER: Oh, that's

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2 right -- that's right.

3 MR. MILAZZO: Typically we swear him
4 in.

5 CHAIRWOMAN MEEK GALLAGHER: That's
6 right.

7 THE STENOGRAPHER: Can you --

8 MR. EAGAN: We should -- maybe we
9 should both just be sworn in.

10 MR. MILAZZO: He doesn't need to be.

11 MR. BARON: I don't need to be. I
12 can --

13

14 (ARMAND EAGAN, was duly sworn.)

15 THE STENOGRAPHER: Can you state your
16 name and address for the record?

17 MR. EAGAN: Armand, A-r-m-a-n-d,
18 E-a-g-a-n.

19 And my address?

20 CHAIRWOMAN MEEK GALLAGHER: Address.

21 THE STENOGRAPHER: Yes.

22 MR. EAGAN: 114 Willis Avenue,
23 Port Jefferson, New York 11777.

24 Okay. One of the -- the gleaming --
25 I'm trying to find the word for it -- one of

1 P R O C E E D I N G S

2 the blaring factors of this initial Pine
3 Barrens analysis of my -- of the property in
4 the surrounding area is this (indicating) map.
5 Where was this map generated? What -- what
6 exhibit is this?

7 MR. BARON: Exhibit I.

8 MR. EAGAN: Exhibit I?

9 MR. BARON: Yes.

10 MR. EAGAN: Where was Exhibit I
11 generated from?

12 CHAIRWOMAN MEEK GALLAGHER: Well,
13 Mr. Eagan, are you going to discuss --

14 MR. EAGAN: I -- I --

15 CHAIRWOMAN MEEK GALLAGHER: -- why you
16 think you deserve a hardship?

17 MR. EAGAN: Yes. But first I -- if
18 there's inaccuracies in the record, how can you
19 make a proper decision?

20 CHAIRWOMAN MEEK GALLAGHER: Well, we'd
21 like to hear from you and then we'll consider
22 all the information.

23 So do you have a different map you'd
24 like to present us with?

25 MR. EAGAN: Yes, and I'll provide it

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2 with some supplemental. This map, just for the
3 purposes of our appeal, is completely
4 inaccurate. There's approximately six parcels.
5 Most of them are substandard on this map.

6 I can just tell by the -- the --
7 there's one that -- not -- not highlighted that
8 is vacant and available, just because I'm in
9 negotiations to buy it. And it's -- it's
10 available, it's not highlighted on the map. So
11 how could there be -- you know, how could this
12 be accurate?

13 MR. BARON: So what you're really
14 asking for is the right to do a supplemental
15 submission to include a map that more
16 accurately reflects the actual status of the
17 land as it is now?

18 MR. EAGAN: Yes.

19 MR. BARON: Okay. We would ask for
20 that opportunity.

21 MR. EAGAN: And for the purposes of
22 the study area, I -- I want to clarify to the
23 Commission that if the allegation the
24 Commission is trying to -- the assertion the
25 Commission is trying to make is that I'm

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2 similarly situated to the other parcels within
3 the study area, I'd like to most importantly
4 start out this appeal by saying I have
5 no freshwater-regulated -- DEC
6 freshwater-regulated wetlands.

7 CHAIRWOMAN MEEK GALLAGHER: There's no
8 mapped wetlands on your property, is that what
9 you're trying to say?

10 MR. EAGAN: There is no, according to
11 the map, the DEC website, which I recently
12 discovered, there is no mapped freshwater
13 wetlands preventing me from having road access
14 to a paved, improved road. Whereas the other
15 parcels on the map would be prevented from
16 having access to a paved, improved road, due to
17 DEC freshwater-regulated wetlands being
18 blocking the road -- any possible road
19 improvements on the map.

20 And that's -- that's an -- an
21 important factor of this appeal, is that it
22 would not be precedential in that respect,
23 because it is impossible, I would say, with
24 this Commission governing the land within the
25 study area, for development of the inner

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2 parcels further than my piece right next door,
3 from being developed due to the significant
4 freshwater-regulated -- DEC regulated
5 wetlands -- I know it's a mouthful -- wetlands
6 on the map.

7 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

8 MR. EAGAN: So we don't share these
9 characteristics. And therefore, I would make
10 the claim that we are not similarly situated to
11 the easterly portion of the map.

12 CHAIRWOMAN MEEK GALLAGHER: Okay.

13 Mr. Eagan, did you have information you were
14 going to share with us? I mean did you have
15 packets you were going to distribute or --

16 MR. EAGAN: You know, I wasn't -- oh,
17 yeah, I wasn't ready to -- I didn't include
18 this in here. I wasn't ready for this, 'cause
19 I wasn't aware this was going to be an -- an
20 issue for this appeal.

21 But now that we outlined -- thank
22 you -- but now that we have it, if -- I'll
23 provide the material in writing. Here's a
24 packet. Well, it gets recorded, we have that
25 too. Well, you might not get one. Oh no,

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2 there we go.

3 (Laughter.)

4 MR. BARON: You only have nine, so --

5 MR. EAGAN: Yeah.

6 MR. BARON: -- we share -- share a

7 copy.

8 MR. EAGAN: Yeah, I only have nine.

9 CHAIRWOMAN MEEK GALLAGHER: Thank you.

10 MR. MILAZZO: Here (indicating),
11 there's one extra one on the top. Yeah,
12 there's one here.

13 MR. EAGAN: Oh.

14 MR. MILAZZO: You can float it down
15 there.

16 MR. EAGAN: There's a staple on top of
17 the staple. The Southampton guys can share.

18 MR. MILAZZO: So you're going -- so --
19 so these will be Eagan A, B, C, D and E.

20 (Whereupon, Eagan Exhibits A
21 through E were received in evidence as
22 of this date.)

23 MR. EAGAN: Can I use this board?

24 MR. BARON: Yes.

25 CHAIRWOMAN MEEK GALLAGHER: You -- you

1 P R O C E E D I N G S

2 can use that board.

3 MR. EAGAN: Okay.

4 MR. MILAZZO: All right, so we're
5 gonna mark that as Eagan Exhibit A, B, C, D and
6 E. And it includes a -- well, do you want
7 to -- do you want to introduce your documents?

8 CHAIRWOMAN MEEK GALLAGHER: Yeah.

9 MR. BARON: Yes, into the record.

10 CHAIRWOMAN MEEK GALLAGHER: Okay.

11 MR. EAGAN: I don't want to --

12 MR. MILAZZO: It's a packet entitled
13 hardship criteria.

14 CHAIRWOMAN MEEK GALLAGHER: Oh, is
15 that what it -- that says?

16 MR. MILAZZO: And Exhibit A is
17 minutes -- draft Commission minutes from
18 June 24, 1998.

19 CHAIRWOMAN MEEK GALLAGHER: Oh, going
20 old school.

21 MR. MILAZZO: Exhibit B is a
22 Commission appeal, a resolution from August of
23 1998.

24 Exhibit C is a decision of the
25 Commission from 1995, June.

1 P R O C E E D I N G S

2 Exhibit D is an aerial 2000 -- a
3 document labeled 2010 aerial from the Town of
4 Brookhaven tax map, I'm assuming 200-271-1/21.

5 And Exhibit E is an aerial and
6 accompanying documents from the Suffolk County
7 Department of Real Property Tax Service of a
8 parcel identified as 0600-137-04.11.005.

9 And there are two or three pages of
10 documents behind Exhibits D and E, and C has
11 two documents behind it. And A has one or two
12 pages behind it as well. And the hardship
13 criteria is -- has one, two -- one, two,
14 three -- four pages behind it. Is that fair
15 and accurate, Mr. Baron?

16 MR. BARON: Yeah. Respectfully
17 though, can I have Mr. Eagan read in the
18 exhibits 'cause he has a slightly different --
19 just to protect the record.

20 MR. MILAZZO: Absolutely. I just
21 wanted to make sure we identified them --

22 MR. BARON: Fair enough.

23 MR. MILAZZO: They're your exhibits.
24 You can introduce them as you wish.

25 MR. BARON: So at this time just for

1 P R O C E E D I N G S

2 purposes of continuity, can Mr. Eagan read --

3 MR. MILAZZO: Perfect.

4 MR. BARON: -- into the record his
5 understanding of what the exhibits represent
6 slowly.

7 MR. EAGAN: Okay.

8 Exhibit A is a decision from 1998.

9 It's the Commission minutes regarding the
10 Woodstock Company as a 40 by, identically
11 similarly situated in location, proximity,
12 everything, every such related to the Dittmer
13 parcel. So it's identically similarly
14 situated. On this, it says Mr. Cowen observed
15 that it was substantially similar to a road
16 front parcel. That was the purpose for
17 including this exhibit --

18 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

19 MR. EAGAN: -- with the associated
20 resolution also from 1998, again regarding
21 Woodstock, and an aerial photograph of the said
22 property.

23 Exhibit B is just a resolution of
24 Doris Fitcher. That's regarding 200-382,
25 lot 19. It's two pages. There's no aerial

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2 photograph or other materials in that.

3 Exhibit C is Amy Madelung -- Made --
4 Madelung, 200-529-1-18 and 36 Marlboro Avenue
5 in Yaphank. And there is an associated aerial
6 photograph connected with this here exhibit and
7 a tax map from who-knows-what year.

8 Exhibit D is an aerial photograph from
9 2010 [sic] -- 2016, excuse me of the
10 Kristiansen, Rita Kristiansen application, and
11 that has a resolution attached to it. It's
12 dated 1996. It's for a hardship application.
13 There is a staff report, a complete staff
14 report attached along with the resolution, also
15 dated March 20, 1996. The resolution is dated
16 March 20, 1996, so they're both dated the same
17 thing. There's a radius map. I believed it's
18 provided by Brookhaven Town, but it's
19 insignificant. And we have here a survey from
20 the FOIL request. I don't see a date on the
21 survey, but I'm sure if we had a bigger copy of
22 the survey, we would be likely to have the date
23 on it.

24 CHAIRWOMAN MEEK GALLAGHER: The survey
25 is dated July 8th, 1988 it looks like.

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2 MR. EAGAN: Wow, I didn't even see
3 that.

4 CHAIRWOMAN MEEK GALLAGHER: Revised
5 September 9th and then revised -- it's revised
6 a couple times. The last revision, it looks
7 like March 15th, 1991 or October 24th, 1994,
8 yeah.

9 MR. EAGAN: Well, that's when it was
10 surveyed, but when was it drawn? That's what I
11 want to know.

12 CHAIRWOMAN MEEK GALLAGHER: Oh, well.

13 MR. EAGAN: Usually you have a date on
14 every document.

15 CHAIRWOMAN MEEK GALLAGHER: It says
16 it was surveyed July 8th, 1988; right, by
17 William R. Simmons.

18 MR. EAGAN: Well, we'll agree that
19 it's 1988 then I guess.

20 CHAIRWOMAN MEEK GALLAGHER: Yeah, it's
21 your document.

22 MR. EAGAN: What?

23 CHAIRWOMAN MEEK GALLAGHER: It's your
24 document you're submitting for the record.

25 MR. EAGAN: Yeah, but it's just, you

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2 know, 1988.

3 MR. BARON: We'll stipulate it, 1988.

4 CHAIRWOMAN MEEK GALLAGHER: Fine.

5 MR. BARON: 1988.

6 MR. EAGAN: I had big hair back then.

7 (Laughter.)

8 MR. BARON: You weren't born in 1988.

9 (Laughter.)

10 MR. EAGAN: As of 10 years -- 10 years
11 later I was born.

12 11 -- 11.5, let's see, this is a road
13 front exemption list, Chapter 9 of the CLUP.

14 And this is the lot, section, block
15 0600-137-04-11.5, Riverview Avenue. It's a
16 road on the road front parcel exemption list,
17 which means that no review of the Commission is
18 necessary in order for this parcel to be
19 developed. From the aerial, it's clear it's
20 located on the Peconic River. So that was the
21 purpose of the aerial. Also, it's located on
22 an un-open paper street, on an old filed map.

23 So that was the purpose of this
24 exhibit. And those were all the materials in
25 there. The front page, for everybody to know,

1 P R O C E E D I N G S

2 is it's the hardship criteria --

3 CHAIRWOMAN MEEK GALLAGHER: Yes.

4 MR. EAGAN: -- from the CLUP. And so
5 we have that in both the staff report and here.
6 Nobody will be talking about that.

7 MR. BARON: Respectfully, in
8 connection -- so -- so we're doing each appeal
9 separately, each hearing separately?

10 CHAIRWOMAN MEEK GALLAGHER: Right,
11 yes.

12 MR. MILAZZO: I think it'll just keep
13 the record cleaner.

14 MR. BARON: Okay. Fair enough.

15 MR. MILAZZO: I mean and there will --
16 we'll repeat each other and that's okay.

17 MR. BARON: Okay.

18 MR. EAGAN: Identically though?

19 MR. MILAZZO: That's okay.

20 MR. EAGAN: Okay.

21 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

22 MR. BARON: So you don't want to refer
23 to what was already said, you want a clean -- a
24 new record?

25 MR. MILAZZO: I -- I think the new

1 P R O C E E D I N G S

2 record for everybody.

3 MR. BARON: Fair enough.

4 MR. MILAZZO: For all parties, we'll
5 be needing that.

6 MR. BARON: And each decision might be
7 slightly different or --

8 MR. MILAZZO: Yeah, that's right.

9 MR. BARON: Okay, fair enough.

10 We're here initially to talk about the
11 40 by 100 Dittmer, slash, Eagan Appeal. We're
12 requesting a one full Pine Barren Credit or a
13 Hardship Exemption to construct a single-family
14 home.

15 We are before the Commission today
16 requesting either one full Pine Barren Credit
17 or a Hardship Exemption to construct a
18 single-family home on the property, and open
19 Chesterfield Road where the total clearing
20 involved is approximately 5,000 square feet.

21 We would like to point out at the
22 beginning of this hearing that no Commission
23 member or staff member has been to the site to
24 survey the vegetation. That's our contention.
25 Let it also be noted that the section -- that

1 P R O C E E D I N G S

2 be developed. Furthermore, development of this
3 parcel will not promote development on Flower,
4 because Flower, although at first glance
5 contains 23 vacant privately-owned parcels,
6 this is the closest parcel to the nearest
7 improved road. Moreover, shortly further in
8 the map is a significant block of DEC-regulated
9 freshwater wetlands, preventing even so much as
10 accessing the inner properties by foot, whereas
11 this property is located over a hundred feet
12 away from the wetlands, removing it from the
13 jurisdiction of the DEC. Lastly, it is unique
14 that in based on the size of the lot, it is our
15 position that the development of this parcel is
16 the very definition of orderly and compact
17 development, because it is neighboring a
18 single-family home.

19 Hardship criteria. It is imperative
20 for the Commission to be aware, prior to any
21 discussion of precedent, that the hardship
22 criteria does not require that a parcel
23 possessed -- possess road frontage in order to
24 be granted a Hardship Exemption, nor it is --
25 nor is it a criteria, in part or completely, to

11 It should be noted that in the
12 Supreme Court in the matter of Henry -- Henry
13 Dittner -- Dittmer versus John Pavacic, et al.,
14 Index --

15 CHAIRWOMAN MEEK GALLAGHER: Pavacic.

16 MR. BARON: -- Number 6 -- 2016-2657

17 before the Honorable Joseph Farneti, and

18 further citing the case of Hamptons v. Zoning

19 Board of Appeals of the Incorporated Village of

20 East Hampton, 98 Appellate Division 3rd and 38,

21 and 950 New York Sub 2nd 2012, both held that

22 an agency's determinations -- an agency's

23 determination which neither adheres to its own

24 prior precedent, nor indicates its reasons for

25 reaching a different result on essentially the

1 P R O C E E D I N G S

2 same facts is arbitrary and capricious, and is
3 subject to being overturned by the Court.

4 It is our position that the
5 development of this parcel is the very
6 definition of orderly and compact development,
7 because it is neighboring a single-family home
8 and there's a commercial structure right down
9 the road.

We also maintain the position that the granting of this hardship is the minimum relief necessary, in order to relieve the hardship bestowed upon us by the Act itself. It would be a hardship if the Commission does not grant this exemption and requires that we accept a PBC instead, because we do not -- because we do not immediately have to -- have a place to apply this PBC, and we would be required to be thrown into a market where everyone is in the same position and the best price wins. Whereas if this hardship is to be granted, this, building lot may have a higher value than other participants in the Credit Program are willing to sell it for, whom may have a more aggressive market approach and may be able to sell the PBC

12 It is important to keep in
13 consideration that for purposes of computing
14 the allocation of the Pine Barrens Credit, a
15 parcel of land is defined as separately
16 assessed, and this is under the Suffolk
17 County Real Property Tax Parcel. See CLUP 6.3,
18 Tuccio -- Tuccio versus Pine Barrens 2007.

1 P R O C E E D I N G S

2 The parcel's proximity to an improved
3 road:

4 The parcel's proximity to utilities.

5 The precedent for a Hardship

6 Exemption, Exhibit C, the Madelung Hardship.

7 This -- this application is identically

8 similar -- similarly situated to the current

9 application. The hardship exemption was

10 granted for the Madelung property, despite

11 having beneficial use of the property,

12 agriculture. The applicants were asked at the

13 hearing to answer the hardship criteria, t

14 which they alleged a financial hardship, which

15 hardship criteria specifically states is not

16 grounds for the granting of a hardship

17 exemption.

19 Kristiansen Hardship Application. This

20 application was granted a hardship exemption.

21 The applicant had a garage constructed

22 property, and a dog pen, and also the property

23 was used for boat storage, or in short,

24 beneficial use. This property is located on

1 P R O C E E D I N G S

2 on the Peconic. This parcel is significantly
3 more environmentally -- environmentally
4 significant than the subject of this appeal.

5 The road front exemption is -- is annexed.

6 Conclusion. In section triple 'i' of
7 the hardship criteria, it states that the
8 granting of a residential development right is
9 considered an extraordinary hardship, as
10 compared to the granting of a hardship
11 application.

1 P R O C E E D I N G S

2 credit, i.e. one Pine Barren Credit is not
3 granted, this would constitute a taking without
4 just compensation.

5 And I think Mr. Eagan has something to
6 add.

7 MR. EAGAN: I want to see if anybody
8 has any questions before I add my --

9 MR. BARON: Closing remarks.

10 (No response.)

11 MR. EAGAN: Wonderful.

12 CHAIRWOMAN MEEK GALLAGHER: Nope.

13 We're happy to hear from you, Mr. Eagan.

14 MR. EAGAN: Okay.

15 I went through this staff report and I
16 crossed out some things that didn't relate to
17 the issues, or maybe I -- I would consider them
18 conclusory is the word. So I went through some
19 of the applications that you presented and I
20 tried to -- I didn't include them today,
21 because I didn't know they would be part of the
22 hearing. But you use them, so I'm gonna try
23 and do it as best I can from memory. But I'll
24 submit them in the supplemental writing
25 material later on.

1 P R O C E E D I N G S

2 Cox, I wanted to discuss with this
3 Commission because the Cox application, I'm
4 sure most of you aren't familiar with it,
5 because it was from 1995. But it involved
6 two -- one property that was, prior to the Act
7 split into two properties, and then remerged
8 back into one prior to the inception of the
9 Act.

10 There is a partially built house on
11 it, but there was an approval for two --
12 construction of two houses. Now, the
13 applicants went for a Hardship Exemption. And
14 the reason for their hardship, in their own
15 words, was that they got a divorce and they
16 didn't -- they may -- and they didn't do
17 something in time to prevent re-merger. So
18 they didn't keep the property single and
19 separate.

20 Now, there was a partially-constructed
21 house on the property. And the Commission, in
22 1995, allowed these people to construct the
23 rest of the house, which is completely
24 reasonable.

25 Now, above that, the Commission

1 P R O C E E D I N G S

2 allowed the -- the property to be re-split. I
3 don't think that conformed to zoning. The
4 zoning in the area was either 5- or 10-acre.
5 And the properties weren't single and separate,
6 so that in and of itself is ridiculous.

7 And above that, the hardship criteria
8 specifically outlines that in order for the
9 hardship to be granted, it must be the minimum
10 relief necessary in order to alleviate a
11 hardship. And also, it -- the applicant has to
12 prove that they do not have beneficial use of
13 the property.

14 Now, for -- for my purposes, let me
15 relate this back to my case --

16 CHAIRWOMAN MEEK GALLAGHER: Thank you.

17 MR. EAGAN: -- because it is -- is
18 important.

19 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

20 MR. EAGAN: We completely agree, if
21 you have half a house built, you should be able
22 to -- it's -- it's a hardship if you can't
23 finish it, of course. But to split it where it
24 doesn't meet zoning and to allow them more
25 beneficial use than they would already have if

1 P R O C E E D I N G S

2 the minimum relief necessary was granted, that
3 might be confusing. So the minimum relief
4 necessary would be the -- the allowance of the
5 one house. And that would be considered
6 beneficial use.

7 They wouldn't have been entitled to
8 sell their hardship, nor is a divorce grounds
9 for granting a hardship. It specifically
10 states that -- the hardship criteria says that
11 it shouldn't be -- in order to grant a
12 hardship -- it's (iii) -- are not the result of
13 any action or inaction by the applicant or its
14 owner, predecessors in title, including any
15 transfer of contiguous lands that were in
16 common ownership on or after June 1st, 1993.
17 So that is the very -- the -- the very --
18 what's the word I'm looking for --

19 MR. BARON: The essence.

20 MR. EAGAN: -- the very essence of
21 what you're -- what you're not supposed to
22 approve, and it was approved by this
23 Commission.

24 You know again, I'll get -- I'm going
25 to relate it back right now. Now, we have here

1 P R O C E E D I N G S

2 a 40 foot piece of property that needs 103 feet
3 of road -- or a hundred -- a hundred feet of
4 road for this purpose, 103, 110 at this point.
5 So that would be approximately 5-and-change
6 thousand square feet of clearing, where this
7 property, the Cox property required
8 significantly more clearing than it would take
9 to develop the Dittmer Dad property, Dittmer,
10 James Eagan. We don't call him James Eagan in
11 the house, you call him Dad.

12 But how could this -- this is an
13 environmental law. Respectfully, it's not a
14 zoning board, it's an environmental law. So
15 how, environmentally, is the development of a
16 40 by a hundred and the associated road more
17 detrimental than the Cox application? And then
18 I'm gonna go over to Kristiansen on the -- the
19 left over here (indicating) --

20 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

21 MR. EAGAN: -- which is one of my
22 exhibits.

23 And do I have a big poster of
24 Kristiansen? No, I don't. I wish I did.

25 But it's Exhibit D -- D -- D. Rita

1 P R O C E E D I N G S

2 Kristiansen had a garage previously built on
3 the property.

4 CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

5 MR. EAGAN: And she had approval to
6 build a house on the property, prior to the
7 inception of the Act --

CHAIRWOMAN MEEK GALLAGHER: Uh-huh.

14 I'm trying to put that in better
15 words. Basically, prior approvals don't
16 matter. And we can point that out in the CLUP.
17 If you'd like, I'll supplement that in -- later
18 on with my packet. Prior approvals don't
19 matter under the CLUP, I'll get that section
20 for you.

21 So this woman, Rita Kristiansen, had a
22 parcel which fronted on a road. She had a
23 garage, boat storage, and a dog pen on the
24 property and was allowed a hardship. I don't
25 think she answered the hardship criteria at

1 P R O C E E D I N G S

2 all, if I read -- I read the transcript and
3 the -- the staff report. And she didn't answer
4 the hardship criteria at all.

5 It was granted, so they said, the
6 limit of clearing and disturbance. So we look
7 at this, it's on the Peconic River. They
8 granted significantly more clearing, for about
9 at least a thousand square feet more clearing
10 than we're asking for. This property has more
11 substantial zoning relief variances than we
12 would be -- we would be requesting based on the
13 zoning. It's located in the A-10 zoning
14 district. And it is on the Peconic River,
15 which is the -- the pinnacle of environmental
16 significance as it relates to Long Island.

17 The water table is 2 feet. So our
18 water table is 8 feet or 9 feet I think. And
19 this water table is 2 feet. So to put a
20 sanitary system on the Kristiansen property
21 would be -- I would consider that a substantial
22 impairment. And I'm pretty sure that any
23 environmentalist would consider that a
24 substantial impairment to the resources of the
25 surrounding area, which are the Core Area. It

1 P R O C E E D I N G S

2 would definitely, most definitely affect the
3 Peconic River.

4 And the staff report most importantly
5 pointed out that this property, there was a
6 survey done. The Commission staff was on the
7 property and they pointed out the freshwater
8 wetlands, the leatherleaf, highbush, blueberry,
9 sweet pepper-bush, fetterbush, buttonbush,
10 winterberry. I didn't even know these things
11 existed and I learned about them from the
12 Kristiansen report.

13 Let's see what other kind of stuff is
14 on here. But it doesn't say -- specifically
15 say what types of endangered are species on
16 there, and but it does say there are endangered
17 species and plant life on the property. And
18 this application was granted.

19 And I understand that road frontage
20 may seem like it's significant as it relates
21 to granting of hardships. But again,
22 respectfully, this is not a zoning board. This
23 is a -- an agency which is governed by a
24 criteria known as the hardship criteria. And
25 the hardship criteria outlines specific

1 P R O C E E D I N G S

2 criteria, in which the Commission must follow
3 and which an applicant meet, in order to be
4 granted a hardship.

5 Now, the most of these applications
6 that the Commission used in their staff report,
7 including and especially Goldstein, I took it
8 out. The night before I took it out of this
9 (indicating), my exhibits here. And I
10 should have left it in for that purpose,
11 Mr. Goldstein, the night before.

24 If you want to flip through Exhibit E
25 to justify that claim, it says here that --

16 Now, your 450-acre radius, your
17 half-mile radius here includes the road
18 front parcel which is located in a
19 substantially-developed area. Now, when we
20 look at it arbitrarily, we can say that, yeah,
21 this circle has all this bad, but we don't
22 point out the good. I like to see the positive
23 in every person. And I like to think of the
24 same for land too. I see the positive in every
25 piece of land.

1 P R O C E E D I N G S

2 Now, this piece of land is located in
3 a substantially-developed area, whereas all of
4 these precedents I presented today, except --
5 except for Madelung, are not located in what is
6 considered substantial-developed areas, and
7 they were granted.

8 And -- and Woodstock -- but that's the
9 matter of the Credit appeal, so we won't get
10 into that in this appeal.

11 So my point being is road frontage is
12 not a criteria for hardship. The criteria for
13 the hardship is, is it the minimum relief
14 necessary, whereas the Extraordinary Hardship
15 would be the acceptance of a Pine Barren
16 Credit, and that would be bestowed upon us by
17 the Commission. And road frontage is not a
18 criteria in which the Commission is -- is
19 obligated to review. It's -- it's not laid out
20 in the CLUP at all, except for in Section 9
21 where it says that parcels taking access from
22 an existing improved public road are eligible
23 for the road front exemption list.

24 So if anything, the only inkling of
25 road front -- of anything to do with road

1 P R O C E E D I N G S

2 frontage states that you can have a -- a
3 buildable lot that doesn't have road frontage.
4 That's the only inkling of anything to do with
5 road frontage in the CLUP.

6 My point is road frontage is not a
7 matter in which the Commission is obligated,
8 nor outlined to review. And doing so is going
9 above and beyond the Commission's, not quite
10 jurisdiction, but obligations. And it would
11 seem as though it's tainted in a way where the
12 chips are set up against us.

13 So I would like for the Commission to,
14 most importantly, reverse any opinions
15 regarding their -- their -- how do I say it --
16 their preconceived notion that road frontage is
17 a criteria, 'cause it's not. It's based on the
18 minimum relief necessary and the other hardship
19 criteria laid out in here (indicating):

20 Not the result of any action or
21 inaction by the applicant;

22 Relate to arise out of the
23 characteristics of the subject property;

24 And do not apply to, affect property
25 in the immediate vicinity.

1 P R O C E E D I N G S

2 And so I answered that in the
3 beginning of the hearing regarding this map
4 here (indicating). My property doesn't affect
5 any property on the -- on the map, except for
6 of course my piece next door which is under
7 review by the Justice Farneti.

8 MR. MILAZZO: I just want to -- yeah,
9 I just want to ask a question. So the -- so
10 the -- you have -- who owns what?

11 MR. EAGAN: Who owns what?

12 MR. MILAZZO: So you own -- you own a
13 piece adjacent?

14 MR. EAGAN: Yeah.

15 MR. MILAZZO: You have half interest
16 in the piece?

17 MR. EAGAN: I answer phones and I
18 type.

19 MR. MILAZZO: Okay, so --

20 MR. EAGAN: I don't know anything
21 about it.

22 MR. MILAZZO: -- so are you on a deed
23 for a piece of property adjacent to this?

24 MR. EAGAN: You know, we own a lot of
25 land.

1 P R O C E E D I N G S

2 MR. MILAZZO: Okay.

3 MR. EAGAN: I have no idea.

4 MR. MILAZZO: Do you own all the lands
5 like pursuant to a common scheme?

6 MR. BARON: Well, I object to the term
7 scheme, I mean.

8 MR. MILAZZO: Plan.

9 (Laughter.)

10 MR. BARON: I don't think that's
11 before this hearing. I mean --

12 MR. MILAZZO: No, that's a -- that's a
13 fair question.

14 MR. EAGAN: I don't understand, what
15 lands are --

16 MR. BARON: What exactly --

17 MR. EAGAN: -- you referring to?

18 MR. MILAZZO: I'm asking about the
19 property directly to the east of this, are you
20 on that deed?

21 MR. EAGAN: I'm not aware.

22 MR. MILAZZO: Okay.

23 MR. EAGAN: Mr. Milazzo, look, from
24 New York City to Montauk, this family owns
25 property out --

1 P R O C E E D I N G S

2 MR. MILAZZO: Mr. Baron --

3 Mr. Baron, the question's a yes or no question.

4 MR. EAGAN: -- from the whole Island.

5 MR. BARON: Well, he's answered it;
6 all right. He's not Donald Trump.

7 (Laughter.)

8 MR. EAGAN: We have no idea -- I am
9 not Donald Trump.

10 MR. MILAZZO: I mean you don't know
11 what you own?

12 MR. BARON: Calm down, stay down. We
13 answered the question, Armand, thank you.

14 MR. EAGAN: I have no idea.

15 MR. MILAZZO: You don't know if you
16 own a piece --

17 MR. BARON: The hearing is about --

18 MR. EAGAN: I don't know.

19 MR. MILAZZO: Did you submit an
20 affidavit on the piece next to it?

21 MR. BARON: Let's not fight, come on.

22 MR. EAGAN: I have no --

23 MR. BARON: He says he doesn't know.

24 MR. MILAZZO: Did you submit an
25 affidavit on the piece next to it saying you're

1 P R O C E E D I N G S

2 the owner?

3 MR. EAGAN: We'll check.

4 MR. BARON: I'm sorry the question
5 was, does he --

6 MR. EAGAN: We'll check -- we'll
7 check.

8 MR. MILAZZO: Okay.

9 MR. BARON: All right. They'll check
10 it out. The -- the only -- they do own various
11 pieces of property, I don't know.

12 MR. MILAZZO: I -- I'm just -- and I
13 understand.

14 MR. BARON: And they're all in
15 different entities. They're not all -- always
16 in the same name, so it is a -- it is a
17 difficult question to answer.

18 MR. MILAZZO: Yeah. And I'm just
19 trying to get a sense of who owns what.

20 MR. BARON: But that -- how --

21 MR. EAGAN: Well, I --

22 MR. BARON: -- is that relevant? Let
23 me answer. How is it relevant to the -- the
24 appeal that's being brought here today,
25 because --

1 P R O C E E D I N G S

2 MR. MILAZZO: It's -- it's just it's
3 relevant only 'cause it just gives a picture of
4 who has what plan.

5 MR. BARON: Yeah, but that -- that --
6 would that in any way change how the --

7 MR. MILAZZO: All right. That's the
8 question I'm asking.

9 MR. BARON: -- what is -- is it going
10 to --

11 MR. MILAZZO: Do your --

12 MR. BARON: -- decide the case, or
13 is --

14 MR. MILAZZO: -- is your access to
15 this parcel over the road -- proposed access to
16 this property over the road or another person?

17 MR. BARON: Say that again.

18 MR. MILAZZO: How would you take
19 access to the parcel under question?

20 MR. BARON: You got to pay attention.

21 You're talking about -- we're talking
22 about --

23 MR. MILAZZO: You made an application
24 to --

25 MR. BARON: -- the 40 by --

1 P R O C E E D I N G S

2 MR. MILAZZO: -- the Commission --

3 MR. EAGAN: I don't understand.

4 MR. MILAZZO: -- to develop lot 36;
5 right?

6 MR. BARON: Listen to the question.

7 MR. MILAZZO: You made an application
8 to develop this property?

9 MR. BARON: This -- this particular --

10 MR. MILAZZO: This piece, the reason
11 we're here today, to discuss this application
12 for lot 36. How is he going to take access?

13 MR. EAGAN: The question is hardship,
14 and if I have beneficial use.

15 MR. MILAZZO: No, the question is how
16 are you getting --

17 MR. EAGAN: Could you please tell me
18 how I have beneficial use or how I don't have a
19 hardship?

20 MR. BARON: Are you answering the
21 question with a question?

22 MR. MILAZZO: And just how are you
23 taking access? If I was to -- if the
24 Commission was to grant this approval, that
25 approval would inquire access to the property.

1 P R O C E E D I N G S

2 And the Commission was --

3 MR. EAGAN: (Laughter.) By
4 helicopter, Mr. Milazzo. (Laughter.)

5 MR. BARON: I told you not to say
6 that.

7 MR. MILAZZO: All right --
8 (Laughter.)

9 MR. MILAZZO: -- okay. Have you --
10 have you -- okay, I'm good. Have you said --

11 CHAIRWOMAN MEEK GALLAGHER: All right,
12 so --

13 (Laughter.)

14 CHAIRWOMAN MEEK GALLAGHER: -- does
15 anyone else have anything to say or can we
16 close this out?

17 (No response.)

18 CHAIRWOMAN MEEK GALLAGHER: Okay.
19 However I believe Mr. Eagan indicated he'd like
20 time to submit, so close it for?

21 MR. MILAZZO: The decision --

22 CHAIRWOMAN MEEK GALLAGHER: Yes, in
23 December.

24 MR. MILAZZO: The December meeting --
25 the December meeting.

1 P R O C E E D I N G S

2 So we're gonna -- so the
3 recommendation would be to close the hearing
4 and allow -- how long? You wanted to submit
5 something additionally. That's fine.

6 MR. BARON: Two things. We wanted to
7 have the right to -- you don't want to -- you
8 want to close the hearing and -- and the --

9 MR. MILAZZO: You don't need it. You
10 mentioned before you wanted to, or you don't
11 want to?

12 MR. BARON: We'll give you a moment.

13 MR. MILAZZO: Okay, that's fine.

14 (Whereupon, a discussion was held off
15 the record.)

16 MR. BARON: All right. We're -- we're
17 going to withdraw that request. We're -- we're
18 agreeing to close the hearing and with the
19 documents that have all been submitted to this
20 Board.

21 MR. MILAZZO: Okay, no problem.

22 MR. BARON: And we'll await the
23 decision.

24 MR. MILAZZO: Right, and the decision
25 deadline is December, the December meeting.

1 P R O C E E D I N G S

2 MR. BARON: December what, you said?

3 MR. MILAZZO: December meeting.

4 MR. BARON: Whatever the date that is.

5 MR. MILAZZO: Okay.

6 CHAIRWOMAN MEEK GALLAGHER: So we need
7 a motion to close the hearing, or no we just
8 closed it?

9 MR. MILAZZO: What was that?

10 So there is one document that Julie
11 mentioned in her staff report that has not --
12 not been received, which is from the Natural
13 Heritage Program.

14 CHAIRWOMAN MEEK GALLAGHER: Oh, okay.

15 So we need to leave the record open for that.

16 MS. HARGRAVE: Yeah, 30 days.

17 MR. MILAZZO: I would close the
18 hearing.

19 CHAIRWOMAN MEEK GALLAGHER: Right.

20 MR. MILAZZO: And then leave the
21 record only open for that one document.

22 CHAIRWOMAN MEEK GALLAGHER: Okay.

23 MR. MILAZZO: And then as soon as it's
24 received, the Commission could provide it to
25 the Dittmers --

1 P R O C E E D I N G S

2 CHAIRWOMAN MEEK GALLAGHER: All right,
3 so that's --

4 MR. MILAZZO: -- to Mr. Eagan.

5 CHAIRWOMAN MEEK GALLAGHER: -- so
6 that's the motion.

7 MR. MILAZZO: Yeah.

8 CHAIRWOMAN MEEK GALLAGHER: Okay.

9 What John said.

10 MR. COLLINS: I'll make the motion.

11 MR. MILAZZO: Did you hear what we
12 said, we're going to --

13 MR. EAGAN: Right.

14 MS. PINES: Second.

15 MR. MILAZZO: -- close it. And there
16 is that one document, and as soon as the
17 Commission gets it, they'll send it out to
18 Mr. Baron.

19 MR. BARON: What document is that?

20 MR. MILAZZO: That was the Natural
21 Heritage Program.

22 MR. BARON: Oh, that's fine.

23 MR. MILAZZO: Oh, yeah, so as soon as
24 we get it, we'll get it out to you.

25 MR. BARON: Thank you.

1 P R O C E E D I N G S

2 CHAIRWOMAN MEEK GALLAGHER: Okay.

3 MR. BARON: Thank you.

4 CHAIRWOMAN MEEK GALLAGHER: All in
5 favor?

6 (Chorus of "ayes.")

7 CHAIRWOMAN MEEK GALLAGHER: Opposed?

8 (No response.)

9 CHAIRWOMAN MEEK GALLAGHER: Any
10 abstentions?

11 (No response.)

12 CHAIRWOMAN MEEK GALLAGHER: All right,
13 the hearing is -- is closed. The record's kept
14 open for that one document.

15 MR. BARON: Thank you.

16 (Time Noted: 4:01 p.m.)

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I N D E X

5 STAFF

	<u>EXHIBITS</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
7	A	Draft staff report	08
8	B	2016 aerials of the project site and surrounding area	08
9	C	Survey prepared by Kenneth H. Beckman, L.S., dated December 22, 2016	08
10	D	Property deed	08
11	E	Photographs of the project site and surrounding area taken on October 5, 2018 by Commission Staff	08
12	F	Breeding Bird Atlas List	08
13	G	NYSDEC Species of Greatest Conservation Need list of species	08
14	H	Freshwater wetlands on the west side of Yaphank Middle Island Rd	08
15	I	Map of the study area	08
16	J	1994 aerial of the study area	08
17	K	Zoning map	08
18	L	Dittmer SCTM #200-529-5-35 decision on remittal	08
19	M	Pine Barrens Credit Clearinghouse letter of interpretation renewal 10/1/18	08

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EXHIBITS

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	<u>EXHIBITS</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
7	A	Woodstock Application	22
8	B	Doris Fitcher Application	22
9	C	Madelung Hardship	22
10	D	Kristiansen Hardship Application	22
11	E	600-137-4-11.5 CRF Parcel	22

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2 C E R T I F I C A T E

3 STATE OF NEW YORK) : SS. :
4 COUNTY OF SUFFOLK)

5

6 I, STEPHANIE J. VALDER, a Shorthand
7 Reporter and Notary Public within and for the
8 State of New York, do hereby certify that I
9 reported the proceedings in the within-entitled
0 matter, on October 17, 2018, and that this is a
1 true and accurate transcription of such
2 proceedings.

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STEPHANIE J. VALDER

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E R R A T A S H E E T

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PAGELINECHANGE or CORRECTION

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